REMARKS

Claims 6 to 14, 16 to 20 and 21 to 26 are pending. Claims 1 to 5 have been canceled. Claims 21 to 26 have been added as new claims. Claim 6 has been amended. Applicants again thank the Examiner for her time to discuss the new claim 21, and respectfully request reconsideration of the rejections in view of the above amendments and the following remarks.

Section 102(a): Masters

Claim 6 and dependent claims 7 to 14 and 16 to 20 were rejected under 35 U.S.C. §102(a) as being unpatentable in view of U.S. Patent No. 7,051,098 to Masters et al. ("Masters"). Applicants respectfully traverse this rejection in view of new claims 21 to 26 and amended claim 6.

New Claim 21.

Masters discloses a resource management architecture that "permits flexible control, i.e., allowing autonomous start up and shut down of application copies on host machines to accommodate changes in data processing requirements . . . It would be desirable to have a user-friendly technique with which to specify quality of service (QoS) requirements for each host, each application, and the network in which the hosts are connected." See Masters, col. 1, lines 20-34. Masters teaches that both hosts and applications are known ***before*** monitoring hosts and applications. See Masters, col. 20, lines 1-8 ("It should be noted that when the Resource Manager FG42 is first started, it reads in the System Specification Files FG32 (via calls to System Specification Library FG34) which contains the list of ***hosts that are known*** to be associated with the distributed environment and information on all applications that can be run in the distributed environment.")(emphasis added). By contrast, claim 21 recites: "a computer-readable medium . . . to: implement probe engines . . . ***to identify different services*** at the one or more remotely-located computer systems that are unidentified[.]"(emphasis added).

There are other differences that further distinguish the claimed invention from the teachings of Masters. For example, Masters discloses the use of host addresses for the discovery of hosts to determine whether a host is on-line or off-line. See, e.g., col. 10, lines 6-10 ("The

Host Discovery function FG14 uses both SNMP and ICMP (ping) calls to each host A N to determine if a new host(s) has (have) come on-line or previously discovered hosts have gone down."); see also col. 11, lines 30-35 and col. 45, lines 15-20. Note that Masters defines the term "host" as a "device including a central processing unit controlled by an operating system." Masters, col. 4, line 67. By contrast, claim 21 recites that the claimed apparatus is configured to "identify that the first service and the second service are available at a first remotely-located computer system and a second remotely-located computer system, respectively." The techniques disclosed in Master that discover whether a host is on-line or not cannot be said to be equivalent to the identification of a first service or a second service.

As another example, Masters discloses the use of a host monitor to monitor the status and performance of a host. See, e.g., col. 10, lines 17-33. Masters seem to teach that the host monitors are of a proprietary design, and require a priori knowledge by a user. This is consistent with the teaching of Masters (i.e., Masters requires a "list of ***hosts that are known*** to be associated with the distributed environment and information on all applications that can be run in the distributed environment.")(emphasis added). See Masters, col. 20, lines 1-8. For example, Masters teaches that:

> Host Monitors FG10A FG10N have been designed and implemented in C++. This decision allows for a completely modular design in which platform-specific code can be restricted to a small number of modules. This approach alleviates any of the problems associated with ***porting to various platforms***. Currently there is support for Sun SPARC based architectures running Solaris 2.6 and 2.7, Silicon Graphics MIPS based architectures running IRIX 6.5., Hewlett Packard PA-RISC based architectures running HP1020, and Pentium based architecture running both WinNT 4.0 Workstation and Red Hat Linux 6.0

See Masters, col. 46, lines 7-18 (emphasis added). Thus, Masters requires a user to "port" a host monitor to a platform prior to use. Further, Masters seems to teach or suggest that the operation of the host monitors depends only on whether a host is on-line. By contrast, the claim 21 recites that "the transmission of the first set of metric probe requests and a second set of metric probe requests ***is based on*** responses generated by the first set of service probe requests and the second set of service probe requests." (emphasis added).

For at least the foregoing reasons, Applicants submit that Masters fails to teach or suggest each element of new claim 21. Therefore, Applicants request withdrawal of the §102(a) rejection in connection with this claim.

Claims 22 to 26.

Applicants submit that claim 21 is now in condition for allowance. Claims 22-26 depend from allowable independent claim 21 and thus are patentable for at least the same reasons. Therefore, withdrawal of the §102(a) rejection in connection with these claims is respectfully requested.

For example, new claim 26 recites that identification of services includes "determin[ing] that one of the first service and the second service is a command line-based service; and determine that other of the first service and the second service is a graphical user interface ("GUI")-based service." As Masters neither teaches nor discloses the elements in new claim 26, Applicants submit that this claim is patentable over the cited art.

Amended claim 6.

Claim 6 has been amended to include elements that are substantially found in new claim 21. Applicants submit that amended claim 6 is now in condition for allowance for at the same reasons set forth above. Therefore, withdrawal of the §102(a) rejection in connection with these claims is respectfully requested.

Claims 7 to 14 and 16 to 20.

Applicants submit that claim 21 is now in condition for allowance. Claims 7 to 14 and 16 to 20 depend from allowable independent claim 6 and thus are patentable for at least the same reasons. Therefore, withdrawal of the §102(a) rejection in connection with these claims is respectfully requested.

Reconsideration of the application and allowance of all claims are respectfully requested based on the preceding remarks. If at any time the Examiner believes that an interview would be helpful, please contact the undersigned.

Respectfully submitted,

/Kenneth R. Backus, Jr./
Kenneth R. Backus, Jr.
Reg. No. 48,861

KOKKA & BACKUS, PC
200 Page Mill Road, Suite 103
Palo Alto, CA 94306-2022
Tel: (650) 566-9921
Fax: (650) 566-9922